

**United States Government  
National Labor Relations Board  
OFFICE OF THE GENERAL COUNSEL**

## Advice Memorandum

DATE: October 12, 2004

TO : Stephen M. Glasser, Regional Director  
Region 7

FROM : Barry J. Kearney, Associate General Counsel  
Division of Advice

SUBJECT: Auto Workers (UAW)  
(Ford, GM, Chrysler)  
Case 7-CE-57 584-1225-6700  
584-1250-5000  
Auto Workers (UAW) 584-3740  
(Dana Corp.) 596-0440-5000  
Case 7-CC-1786

These Section 8(e) and 8(b)(4) cases were resubmitted after the Region conducted a supplemental investigation pursuant to our prior Advice memorandum dated July 8, 2004. As discussed in that memorandum, the cases involve the so-called "good corporate citizen" provision in the nation-wide collective-bargaining agreements between the Auto Workers (UAW) and Ford, GM, and DaimlerChrysler (the Big 3). Under that provision, the automakers are to advise suppliers that the Big 3 prefer suppliers that are "good corporate citizens" and abide by state and federal labor laws, and that the Big 3 will not refuse to deal with suppliers that do not oppose unionization. The National Right to Work Foundation (RTW), on behalf of the Charging Party, a Dana Corporation employee, alleged that the provision on its face or as applied by the parties requires suppliers, as a condition of doing business with the Big 3, to enter into neutrality agreements with the UAW.

In our July 8 memorandum, we concluded that provision was not facially unlawful because it does not explicitly require that the Big 3 condition business dealings with suppliers on their agreement to enter into neutrality agreements or any other specific terms and conditions of employment. We remanded for further investigation of RTW's assertion, based on the proffer of certain hearsay accounts, that extrinsic evidence establishes that the good corporate citizen provisions as applied involve Big 3 insistence that suppliers sign neutrality agreements with the UAW as a condition of doing business with the Big 3.

The Region has contacted all of the sources of the hearsay statements proffered by the RTW, and none resulted in any conclusive evidence of unlawful activity by the Big 3. We conclude that in light of the Region's

supplemental investigation, the instant charges should be dismissed, absent withdrawal.

**FACTS**

RTW pointed to various hearsay accounts that suggested there may be evidence that the Big 3 interpret their agreements with the UAW to mean that, to be a good corporate citizen, a supplier must sign a neutrality agreement, and that the Big 3 intend to coerce the suppliers to agree to neutrality. We outline below the evidence relied on by RTW and the Region's follow-up investigation.

[FOIA Exemptions 6 and 7(c)]

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[*FOIA Exemptions 6 and 7(c)*]

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### **Additional RTW Evidence**

The Region also asked RTW to present any additional evidence it may have suggesting that the Big 3 and the UAW may be enforcing its agreement in a manner that violates Section 8(e). In response, RTW provided excerpts from several Board affidavits in other matters involving the UAW and Dana<sup>2</sup> which purportedly establish that the UAW has an agreement to cease doing business with suppliers that refuse to sign UAW neutrality or partnership agreements.

In these affidavits, [FOIA Exemptions 6 and 7(c)] state that Dana managers informed then in general terms that Dana had signed a partnership agreement with the UAW in order to "compete" for future contracts, to "encourage a good relationship" between Dana and the Union or to "ensure" that the company would continue to secure those contracts from the Big 3. [FOIA Exemptions 6 and 7(c)] stated that a

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<sup>2</sup> Specifically, Cases 11-CB-3397, 3398, 3399; 11-CA-20134, 20135, and 20136; 9-CA-40444 and 40521; and 9-CB-10981 and 10996.

manufacturing manager at a Dana plant informed employees that "as part of an agreement with UAW to allow Ford to shut [specific] plants down, in return, the UAW was asking Ford to allow its suppliers to be unionized. Dana said Dana has signed the agreement with [the UAW] to ensure that Dana would keep getting work from Ford." [FOIA Exemptions 6 and 7(c)] does not explain who the Dana manager's source for this information was or how he arrived at his stated conclusion about the genesis of the partnership agreement with the UAW. RTW also provided a news article that quoted a labor professor at a Detroit university as stating that suppliers have to prove to the UAW that they are not the union's "ideological enemy" in order to secure future contracts from the Big 3.

### **ACTION**

We conclude that this investigation has failed to disclose probative evidence that the UAW and the Big 3 are enforcing their agreements in a manner that violates Section 8(e) and, accordingly, the instant charges be dismissed for lack of evidence.

The evidence as set forth above is insufficient to establish that the agreements between the UAW and the Big 3 either expressly or implicitly make a link between good corporate citizenship and neutrality agreements. The Region's investigation upon remand establishes that

- Analyst Sean McAlinden has no recollection of any statements by or attributed to Big 3 negotiators that suggest that the Big 3 agreed to pressure suppliers to sign neutrality agreements with the UAW.
- Reporter Mike Hudson denied that suppliers that attended a November 2003 meeting complained specifically that the Big 3 wanted them to sign partnership agreements or recognize the Union. Rather, suppliers complained generally that they had to give the Big 3 what they want in order to secure work.
- Reporter Jeffrey McCracken stated that the only information he has regarding pressure on suppliers from the Big 3 to sign neutrality agreements was contained in his 2003 article, which merely quoted the opinion of attorney John Holmquist.
- Attorney John Holmquist refused, on behalf of his law firm, to cooperate in the investigation in any meaningful manner.

In addition, the new evidence that RTW presented to the Region does not include any statements made by individuals with direct knowledge of alleged Big 3 pressure on suppliers to sign neutrality agreements. Rather, the evidence consists of unattributed hearsay or generalized opinions that Dana signed a partnership agreement in order to secure more work or retain its competitive position.

Thus, the supplemental investigation has not adduced any evidence that would support an allegation that the parties have applied the "good corporate citizen" provision unlawfully. Given the lack of such evidence in the investigation, the instance cases should be dismissed, absent withdrawal.

B.J.K.